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OFFICE OF PETITIONS

| | |
|------------------------------|---------------------------|
| In re Application | : |
| John Fruehauf | : |
| Application No. 09/982,286 | : DECISION ON PATENT TERM |
| Filed: October 16, 2001 | : ADJUSTMENT |
| Attorney Docket No. 97,150-C | : |

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed June 1, 2007, requesting correction of the initial determination of patent term adjustment (PTA) from nine hundred ninety (990) days to one thousand seventy (1070) days.

The application for patent term adjustment is GRANTED.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is **one thousand seventy (1070) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 1, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is nine hundred ninety (990) days. On June 1, 2007, Applicant timely¹ submitted the instant application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one thousand seventy (1070) days.

¹ Applicants filed the application for patent term adjustment together with the payment of the issue fee.

Applicant asserts entitlement to a patent term adjustment of one thousand seventy (1070) days on the basis that the PTO improperly assessed Applicant a delay of eighty (80) days for filing an Information Disclosure Statement (IDS) on May 10, 2002, after Applicants had filed a response to a "Notice of Non-Compliant Amendment (37 CFR 1.121)" on February 19, 2002.

Applicant fails to state whether the patent issuing from the application is not subject to a terminal disclaimer.

The Office initially determined a patent term adjustment of nine hundred ninety (990) days based on an adjustment for PTO delay of one thousand, one hundred one (1101) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by Applicants' delays of eighty (80) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(c)(8) and five (5), six (6), and twenty (20) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of 80 days is at issue.

The application was filed with a preliminary amendment on October 16, 2001. The Office then mailed a "Notice of Non-Compliant Amendment (37 CFR 1.121)" on January 17, 2002. Applicant filed a complete reply on February 19, 2002. Prior to the first Office action under 35 USC 132 being mailed, Applicant filed an IDS on May 10, 2002, and was assessed delay of eighty (80) days. However, Applicant should not have been assessed any delay for this filing. It was not supplemental to the February 19, 2002 reply.

Accordingly, the correct determination of PTA at the time of mailing of the Notice of Allowance is **one thousand seventy (1070) days** (1101 days of PTO delay and 31 (20+5+6) days of applicant delay).

Receipt of \$200 fee under § 1.18(e) is acknowledged.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571) 272-3207.


Nancy Johnson
Senior Legal Advisor
Office of Petitions

Enc: updated PAIR screen (2 pages)

Day : Thursday
Date: 9/13/2007

Time: 19:55:04

PALM INTRANET

| PTA Calculations for Application: 09/982286 | | | |
|---|------------|-------------------------|------|
| Application Filing Date: | 10/16/2001 | PTO Delay (PTO): | 1101 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 111 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 1070 |
| PTO Delay Adjustment: | 80 | | |

| File Contents History | | | | | | |
|-----------------------|------------|---|-----|------|-------|--|
| Number | Date | Contents Description | PTO | APPL | START | |
| 60 | 09/13/2007 | ADJUSTMENT OF PTA CALCULATION BY PTO | 80 | | | |
| 53 | 03/01/2007 | MAIL NOTICE OF ALLOWANCE | | | | |
| 52 | 03/01/2007 | MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413) | | | | |
| 51 | 02/27/2007 | ISSUE REVISION COMPLETED | | | | |
| 50 | 02/27/2007 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | | |
| 49 | 02/20/2007 | NOTICE OF ALLOWABILITY | | | | |
| 48 | 02/09/2007 | EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413) | | | | |
| 47 | 12/06/2006 | DATE FORWARDED TO EXAMINER | | | | |
| 46 | 11/28/2006 | RESPONSE AFTER NON-FINAL ACTION | | | | |
| 45 | 11/28/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | | |
| 44 | 08/28/2006 | MAIL NON-FINAL REJECTION | | | | |
| 43 | 08/23/2006 | NON-FINAL REJECTION | | | | |
| 42 | 07/28/2006 | PARALEGAL TD ACCEPTED | | | | |
| 41 | 07/27/2006 | DATE FORWARDED TO EXAMINER | | | | |
| 40 | 07/25/2006 | AMENDMENT AFTER FINAL REJECTION | | | | |
| 39 | 05/25/2006 | MAIL FINAL REJECTION (PTOL - 326) | | | | |
| 38 | 05/24/2006 | FINAL REJECTION | | | | |
| 37 | 05/10/2002 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | | |
| 36 | 05/10/2002 | REFERENCE CAPTURE ON IDS | | | | |
| 35 | 05/10/2002 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | 80 | 13 | |
| 34 | 03/27/2006 | DATE FORWARDED TO EXAMINER | | | | |
| 33 | 03/20/2006 | RESPONSE AFTER NON-FINAL ACTION | | 20 | 30 | |

| | | | | | |
|------|------------|--|------|----|--|
| 32 | 03/09/2006 | MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT | | | |
| 31 | 03/09/2006 | DATE FORWARDED TO EXAMINER | | | |
| 30.1 | 02/28/2006 | INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION | | | |
| 30 | 02/28/2006 | RESPONSE AFTER NON-FINAL ACTION | 6 | 28 | |
| 29 | 02/28/2006 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 28 | 11/22/2005 | MAIL NON-FINAL REJECTION | | | |
| 27 | 11/18/2005 | NON-FINAL REJECTION | | | |
| 26 | 11/03/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 25 | 10/06/2005 | DATE FORWARDED TO EXAMINER | | | |
| 24 | 09/29/2005 | RESPONSE TO ELECTION / RESTRICTION FILED | 5 | 21 | |
| 23 | 09/29/2005 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 22 | 06/28/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 21 | 06/24/2005 | MAIL RESTRICTION REQUIREMENT | 1101 | 13 | |
| 20 | 06/22/2005 | REQUIREMENT FOR RESTRICTION / ELECTION | | | |
| 19 | 10/21/2003 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 18 | 10/20/2003 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 17 | 03/17/2003 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 16 | 12/16/2002 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 15 | 04/19/2002 | RESETTING OF A CPA TO NEW CASE STATUS OF 030 | | | |
| 14 | 04/09/2002 | DATE FORWARDED TO EXAMINER | | | |
| 13 | 02/19/2002 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 8 | 01/17/2002 | MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT | | | |
| 6 | 01/17/2002 | MISCELLANEOUS ACTION WITH SSP | | | |
| 5 | 01/05/2002 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 4 | 11/08/2001 | APPLICATION DISPATCHED FROM OIPE | | | |
| 3 | 11/07/2001 | CORRESPONDENCE ADDRESS CHANGE | | | |
| 2 | 10/25/2001 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 10/16/2001 | INITIAL EXAM TEAM NN | | | |

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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